

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: KRUER, Thomas R.; THOMPSON, Hugh A.

SERIAL NO.: 10/785,257

ART UNIT: 3752

FILED: February 24, 2004

EXAMINER: Barney, S. E.

TITLE: UNITIZED MAT TO FACILITATE GROWING WOODY PLANTS

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action of March 25, 2005, a response being due with a one month extension by July 25, 2005, please enter the amendments as presented herein and consider the following remarks regarding the above-identified application as follows:

REMARKS on Amendment A

Upon entry of the present amendments, Claims 1 - 12, 14-15 and 18- 29 remain pending. Claim 13 has been canceled, and Claims 21-29 have been added. Reconsideration of the rejections, in light of the foregoing amendments and present remarks, is respectfully requested. The present amendments have been entered for the purpose of distinguishing the present invention from the prior art and for placing the claims into a condition for allowance.

In the Office Action, it was indicated that Claims 1, 6, 7, 10, 12, 13, 16, 17 and 20 were rejected under 35 U.S.C. §102(b) as being anticipated by the Diaz patent. Regarding obviousness, it was indicated that Claims 2, 3 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Diaz patent and the Dinur patent. Claims 2-5 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Diaz patent in view of the McMurtrey patent. Claims



11 and 15 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Diaz patent in view of the Chambers patent. Importantly, it was indicated that Claims 9, 14 and 19 were objected to as being dependent upon a base claim but would be allowable if rewritten in independent form. The drawings were objected to for failing to show the subject matter of the Claims 16-17 for a fluid-filled container.

In reply to the Office Action, Applicant has canceled Claim 13 and extensively amended Claim 1. New Claims 21-29 have been added. The specification has been amended to correct the use of reference numerals in the drawings. The drawings have also been amended to correct the reference numerals. Applicant further points out the subject matter of Claims 16-17 in the drawings for the Examiner. Reconsideration of the rejections of Claims 1-12 and 14-29 and review of the present remarks, is respectfully requested.

Regarding Claim 1, Applicant notes that the present application, U. S. Serial No. 10/785,257 is a continuation-in-part of U.S. Serial No. 10/439,416. The '416 application has been extensively examined by another examiner and has undergone several amendments. Identical rejections by the same prior art have been made against the independent claim of the '257 application as in the '416 application. The present amendments to Claim 1 now synchronize the parallel examination of the original invention ('416 application) and the present continuation-in-part ('257 application), even though the prior art rejections are not identical or synchronized by the examiners.

Applicant respectfully requests the Examiner to consult with the '416 application file and examiner so as to avoid unnecessary duplication of rejection and responses. The '416 application has been assigned to Group Art Unit 3643, Examiner Andrea Valenti (571-272-6895). The basic subject matter is very related. The present '257 application contains improvements to the unitized

mat for use with woody plants.

Briefly, Claim 1 of the '416 application and Claim 1 of the '257 application were originally identical. Claim 1 has already been rejected as anticipated by the Diaz patent in the '416 application. Claim 1 has since been amended and rejected again by new prior art combinations in the '416 application. Claim 1 is currently rejected under the obviousness by combination of the Diaz patent and the Dinur patent (DE 44 08 556). Applicant has made amendments to original Claim 1 in the '416 application in response to the most recent rejection.

Applicant intended to amend Claim 1 of the '257 application to incorporate the improvements used for woody plants as disclosed in the dependent claims of the '257 application. Claim 1 of the '257 application is now amended to correspond to the version being considered in the '416 patent and to incorporate the specific characteristics for woody plants. Claim 1 of the present '257 application is now synchronized with the version of Claim 1 pending in the '416 application. Claim 1 of the present '257 application also includes further additional inventive characteristics for woody plants. Specifically, the plurality of perforations of Claim 13 has been incorporated into the base independent Claim 1. Also, the perforations and structural relationship to the corresponding outlet means and second distribution header has been positively recited in Claim 1.

Applicant submits the presently amended Claim 1 to more specifically claim the distinctive features of the invention, with particular focus on structure. It is important to note that Figure 1 is described as illustrating the basic construction of the invention; however, Figure 1 is not a preferred embodiment of the invention. As such, Applicant has focused on Figures 2, 3 and 4 as preferred embodiments to be covered by the independent Claim 1.

With specific regard to Claim 1, Applicant has extensively amended to more clearly define

the distribution headers and flow restricting means and to positively recite a plurality of perforations in the material layers. Specifically, the distribution headers are now claimed as first and second distribution headers. The first distribution header can be viewed as the central water source line. To be consistent with the original specification, the term "hose line" or "central water source line" was not used. Additionally, the structural interrelationships between the first and second distribution headers and the flow restricting means have been positively recited in the claim language, including the relation between the outlet means and the second distribution header. Consistent with Figures 2, 3 and 4, independent Claim 1 now properly claims the elements of the first distribution header (22b, 22d, 22), the flow restricting means (24b, 24d, 24), and a second distribution header. These amendments synchronize with the corresponding Claim 1 of the '416 application.

Additionally, Claim 1 of the '257 application now recites a plurality of perforations and multiple outlet ports corresponding to the perforations, originally disclosed in Claim 13. These improvements allow the present invention to cover the surface over a portion of the root zone of the woody plant and provide even distribution of water throughout the root zone using multiple outlet ports. These particular innovations and the subject matter of the dependent claims relate to woody plants and are the subject matter of the '257 application and the present continuation application. These amendments are improvements beyond the '416 application that are patentable subject matter as a continuation-in-part. Claim 13 is canceled.

Importantly, it is clear that the prior art, cited in all of the related applications (the '416 application and the '257 application) does not disclose these fluid-conveying passageway structures and multiple outlet ports as now claimed. The tiered fluid flow metering and restriction between levels of distribution headers and flow restricting means of the present invention is not disclosed in

any reference. Furthermore, the distribution headers of the present invention allow the unitized mat to cover a large planar area and maintain fluid flow control that would not have been feasible using the prior art technology.

With specific regard to Claim 21, Applicant has presented new Claim 21 to address the embodiment of Figure 10 with analogous language to Claim 1. Applicant respectfully presents this new claim for consideration of a unitized mat for woody plants with flow restricting means but without a distribution header. The present invention also allows for a flow restricting means 36h (Figure 10) in order to cover the area of the polymeric material layers. The prior art does not disclose flow restricting means delivering fluid over an area without using a "central water source line". Claim 21 is relevant to the present invention as another embodiment of the unitized mat for woody plants with multiple outlet ports and corresponding perforations dispersed around the area of the woody plant. The invention maintains fluid control within the fluid-conveying passageways and allows the unitized mat to effectively and synergistically cover the large area around a woody plant. Claim 21 more clearly claims the subject matter of Figure 10, which was also originally introduced by Claim 20.

Claims 22-29 are dependent claims of new independent Claim 21. The subject matter of these dependent claims correspond to dependent Claims 2, 4, 5, 9, 11, 14, 16 and 17, respectively. The required fee for another independent claim is not required because Claim 21 is within the amount of independent claims already paid for. The required fee for the eight additional claims (9 dependent claims added, 1 dependent claim canceled) is \$200 (8 x \$25 fee code 2202). The required fee can be charged to Deposit Account 080879.

Additionally, Claims 16-17 were the subject matter of the rejection of the drawings. The

Examiner stated that the "fluid-filled container" was not shown in the drawings. Applicant notes that Figure 9 clearly shows the "fluid-filled container" as reference numeral 130. Additionally, an enabling discussion of this feature and the subject matter of Claims 16-17 is included in Paragraphs [0094] to [0095].

Based upon the foregoing analysis, Applicant contends that independent Claim 1 and Claim 21 are now in proper condition for allowance. Additionally, those claims which are dependent upon the independent Claims 1 and 21, namely Claims 2-12, 14-20, and 22-29, should also be in condition for allowance. Reconsideration of the rejections of the claims in the form of the present amended claims and allowance of the claims at an early date is earnestly solicited. Since new claims have been added beyond those originally paid for, the additional claim fees can be charged to Deposit Account 080879. The extension of time fee is enclosed.

Respectfully submitted,

7-25-05

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AMENDMENT "A"

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Amendment A: DRAWING AMENDMENTS

Please substitute the enclosed single (1) page of formal drawings (Figure 10) in place of the previously submitted page of Figure 10. The page is labeled as "REPLACEMENT SHEET" in the header.